

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

NELSON ROUETTE and JAY NEARIS, )  
Plaintiffs and )  
Counterclaim Defendants, )

v. )

MACHINE & ELECTRICAL )  
CONSULTANTS, INC., et al., )  
Defendants and )  
Counterclaim Plaintiffs. )

----- )

C.A. No. 04-11534-MLW

MACHINE & ELECTRICAL )  
CONSULTANTS, INC., )  
Third-Party Plaintiff, )

v. )

QUALITY MACHINE SOLUTIONS, )  
INC., )  
Third-Party Defendant. )

ORDER

WOLF, D.J.

August 4, 2004

This case was removed to this court from the Hampden County Superior Court. Removal to the Eastern Division of this court was not proper. 28 U.S.C. §1441(a) provides, in pertinent part, that "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending."

The Western Division, rather than the Eastern Division, of this District embraces the place where this case was pending before

the notice of removal was filed. See Local Rule 40.1(C) of the Local Rules of the United States District Court for the District of Massachusetts.

This court will follow the Fifth Circuit's rule that "a defendant's failure to remove a case to the correct 'division' . . . . [should] be cured simply by transferring the case to the correct division under Section 1406(a)." 14C Wright & Miller §3726.

Accordingly, it is hereby ORDERED that this case be TRANSFERRED to the Western Division of the United States District Court for the District of Massachusetts.

/s/ Mark L. Wolf  
UNITED STATES DISTRICT JUDGE